

REMARKS

Declaration

In the Office Action, the Examiner noted that the Declaration does not identify the city and either the state or foreign country of residence of each inventor and that the Declaration does not include the notary's signature, or the notary's signature is in the wrong place.

This application was prepared and filed on-line, using software and forms provided by the Office for the purpose. The Application Data Sheet that was electronically submitted to the Office, and that is still existing in the computer of Applicant's undersigned counsel, provides the following information allegedly missing from the application:

ePave 5.1 - New utility / Application Data Sheet / Preview (Application Data Sheet) (Status: Submission completed)

APPLICATION DATA SHEET

Electronic Version v14
Stylesheet Version v14.0

Title of Invention	Combination buttonhook and zipper puller	
Application Type:	regular, utility	
Attorney Docket Number:	140478	
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The electronic form does not provide a place for signing by a notary. However, pursuant to 37 C.F.R. § 1.68, notarization is not a requirement for a declaration. Applicant's declaration as electronically filed is believed to satisfy the requirements for a declaration.

The Specification

The Examiner objected to the Specification, as reference numbers "170" referring to a seating channel (Fig. 5) were improperly referred to as reference numbers "140." A substitute paragraph is submitted herewith to replace Paragraph 26 of the Specification, and to correct the error.

The Examiner has raised Claim Objections to claims 1 – 10 on grounds that Applicant claims "a combination buttonhook and zipper puller," but recited only "a zipper puller."

Throughout the Specification, Applicant has referred to the combination buttonhook and zipper puller as "the device of this invention." *See, e.g.*, paragraphs 0005, 0008, 0013 – 0018, 0021, 0022, 0023, 0024 or, in some instances, as "the device." *See, e.g.*, paragraphs 0019, 0022, 0025. Each instance of the use of the term "device" is intended to refer to the "combination buttonhook and zipper puller." However, where it is intended to describe a specific function of the invention, such as a buttonhook function, or a zipper-puller function, then that specific function is named without reference to any other function. *See, e.g.*, paragraphs 0006, 0007 and 0009 – 0011. Because each claim includes the language "a combination buttonhook and zipper puller," and the Specification is believed to be clear in its references to "the device" as being "a combination buttonhook and zipper puller," Applicant does not understand the objection, nor comprehends the means for correcting it.

Fig. 5A of the Drawings has been added to specifically indicate the arcuate surface having a partial circumference of not more than 190 degrees. This feature of the invention is disclosed in original claim 8, and the added view shown in Fig. 5A does no more than clarify the meaning of the language of claim 8 and provide an additional perspective for the drawing of Fig. 5, viewed from above plane A – A'. No new matter has been added.

The Examiner rejected claim 8 under 35 U.S.C. § 112, first paragraph. According to the Examiner, the claim is not enabled for the reason that the Specification inadequately describes the "arcuate surface having a partial circumference of not more than approximately 190 degrees." This rejection is overcome through the Fig. 5A drawing in which this claim limitation is more clearly shown.

Sec. 112 Rejections

The Examiner rejected claims 1 – 10 as being indefinite as a result of the claim terminology "periphery." As used in the claims, "periphery" had been intended to refer to the shape and form of the device of the invention, which is a hollow structure being bounded on the periphery of the structure by the stands and grasping ring. Claims 1, 6 and 10 have now been amended to omit the term "periphery." As amended, claims 1, 6 and 10 are believed to overcome the rejection of indefiniteness for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.

The Examiner has also noted that the term "said end portion" on the last line of claim 1 lacks antecedent basis. Claim 1, as electronically submitted, is believed to provide antecedent basis for "said end portion" since, earlier in the claim appears the language: "one of said

corresponding and opposing strands being longer in length and extending to the full length of said elongate portion to form **an end portion . . .**"

Sec. 102 Rejections

The Examiner rejected claims 1, 2, 4 – 8 and 10 as being anticipated by Colicher (Des. 420,938). According to the Examiner, Colicher discloses a zipper puller comprising a grasp ring, an elongated member having two opposing strands wherein one being shorter in length and the strands are releasably joined at each distal end. Colicher is also said to disclose internal supporting members (as claimed by Applicant in claim 4), and to show a longer strand having an arcuate surface and a partial circumference not more than approximately 190 degrees at its distal end.

Colicher is a design patent showing a solid disc to which is affixed a long stem at the far end of which is attached a flexible clip. The disc of Colicher is not the same as the "grasping ring" that is claimed in claim 1. As explained in paragraph 0005 of Applicant's Specification, "[t]he other end of the device has an oval grasping ring to which a pulling force may be applied simply by inserting the fingers or thumb through the ring without the need for a separate handle." The disc of Colicher is solid, and does not permit the application of force by inserting the fingers or thumb through the disc. This feature of Applicant's invention is carried through in all claims, and is not found or suggested in Colicher. Thus, claim 1 is not anticipated nor suggested by Colicher.

Moreover, with respect to claim 8, in light of Applicant's clarification of the meaning of "an arcuate surface having a partial circumference not more than approximately 190 degrees at its distal end," Colicher does not exhibit this feature. Rather, the termini of the clip disclosed in

Colicher appear to rest against one another without being held within a seating channel that comprises an interlocking configuration as claimed in claim 8.

The Examiner also rejected claims 1 – 5 and 10 as being anticipated by Uhry (389,863). According to the Examiner, Uhry discloses, *inter alia*, an elongated member having two opposing strands (see Fig. 2 of Uhry) wherein one strand is shorter (b) in length and the two strands are releasably and substantially joined.

Although Applicant acknowledges that the electronic image of Fig. 2 of Uhry maintained by the Office appears to show a strand that has a gap within the loop, Applicant notes out that this is a defect in the image, and not a feature of the invention disclosed by Uhry. This conclusion is based upon the fact that Uhry does not discuss a loop having a discontinuity or break, and the structure of Uhry would not support such a loop. If there were a discontinuity in the loop, the strands formed by the loop would lack support within the casing to hold them in position relative to one another, as the ends of the loop within the case may touch, but are not joined or affixed to one another. Rather than have a break, "the said loop [b] is made by doubling the wire, as at b⁵, the free ends lying in the case." Uhry, col. lines 42 – 44. The discontinuity in Fig. 2 also shows the case (a) as being discontinuous, which is clearly not possible since the case is described as being "a small flat or approximately flat case." Uhry, col. 1, lines 33 – 34. In addition, Fig. 2 is said to be "a plan [view] of the same [Fig. 1] with the top plate removed," Uhry, col. 1, lines 27 – 28, and Fig. 1 clearly does not show any discontinuity in either the top plate (a) or the loop (b). If there were a break in the loop, Uhry would have disclosed its existence, and would have explained the connection mechanism at the point where the two loop ends would have met. The fact that Uhry does not disclose a break in the loop, and that Uhry's invention would not work if there were a break in the loop, establishes that Fig. 2

shows a discontinuity that does not exist in Uhry's invention or in the actual patent issued to Uhry. As such, the disclosure cited by the Examiner does not exist and should be disregarded.

Similarly, Uhry does not show the "grasp ring" that is claimed in claim 1 of Applicant's invention. Rather, Uhry has a "small flat or approximately flat case" that is used to grasp the buttonhook. Uhry's invention does not permit force to be placed on the device by inserting a finger or thumb through a grasping ring, and the invention of Uhry would not work with such a configuration.

The Examiner rejected claim 10 as having been anticipated by Fox (6,240,604), which discloses a zipper puller comprising a resilient grasp portion, and an elongated member having two opposing strands that the Examiner describes as being releasably joined.

Fox, however, does not disclose an elongated portion "being formed by two segments of a filament, said segments being tapered and one of said segments forming a rounded end," or "said segments being releasably joined," as claimed in claim 10. Fox does disclose two segments, but they do not exhibit a taper and one of them does not form "a rounded end." Rather, both segments form a right angle, not a rounded end, immediately prior to their termination points. The segments of Fox are not releasably joined, but simply rest against one another due to the force exerted by the supporting spring structure. Fox does not disclose a "joining" mechanism or structure.

Sec. 103 Rejections

The Examiner rejected claim 3 as being obvious, hence unpatentable, over Colicher. According to the Examiner, it would have been obvious to one of ordinary skill in the art to provide an oval shaped ring instead of the circular shape of Colicher's zipper puller. However, as

previously noted, Colicher does not disclose a ring at all, but a solid disc. Although a person of ordinary skill in the art may have found it obvious to substitute an oval shape for a circular shape, that person would not have found it obvious to substitute a hollow ring for a solid disc. The ring is necessary to permit a strong force to be exerted upon the device, and Colicher is not intended to satisfy that requirement, and does not suggest the use of a hollow ring instead of a solid disc.

None of the prior art cited by the Examiner anticipates or makes obvious all of the claim limitations found in each of claims 1 – 10 of applicant's invention.

The Examiner did recite that claim 9 would be allowable if rewritten to overcome the Sec. 112 second paragraph rejections, and to include all of the limitations of the base claim and any intervening claims. Claim 9 has been cancelled, and new claim 11 has been so written, and should be allowable regardless of the further examination of any other claims.

WHEREFORE Applicant prays for the Examiner to withdraw his objections and rejections as to the amended claims, and to issue of a Notice of Allowability for claims 1 - 10.

Dated: February 22, 2005

Respectfully submitted,

A handwritten signature in cursive script, reading "Michael C. Cesarano".

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